

Robert E. Sachs, P.A., President

BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:)	
)	
James Pratt)	STIPULATION FOR A
)	PROBATIONARY LICENSE
For a Physician Assistant License)	
_____)	

James Pratt, applicant for a physician assistant license (hereafter Applicant), and Maureen L. Forsyth, Executive Officer, Physician Assistant Board (Board), hereby stipulate as follows:

FACTUAL FINDINGS

Jurisdiction

- 1) This Applicant is a Rocky Mountain College graduate of the Masters Physician Assistant Program. He is licensed to practice as a physician assistant in the state of Utah.
- 2) On May 31, 2018, the applicant submitted an application for physician assistant licensure to the Physician Assistant Board. Question 15 on the application asked: *"Have you ever had a healthcare license or certificate, or narcotics (controlled substance) permit denied or disciplined by this State, any other state, agency of the federal government, or another country, or have you ever surrendered such a license, certificate, or permit?"* Question 18 on the application asked: *"Have you ever been charged with, or been found to have committed unprofessional conduct, professional incompetence, gross negligence or repeated negligent acts, or malpractice by any licensing board, other agency, or hospital or has any disciplinary action ever been filed or taken regarding any healthcare license which you now hold or have ever held, or is any such action pending?"* The applicant checked the box marked "no" next to Questions 15 and 18 and signed his application on May 31, 2018, attesting that he had read the questions in the application and declared that all of the information contained in his application was true and correct. He understood that falsification or misrepresentation of any item or response on the application or any attachment hereto is a sufficient basis for denying or revoking a license.

3) The applicant was issued citation number 31997 by the state of Utah for violation of offense 58-1-501(1)(a)(i) – Unlawful and Unprofessional Conduct on June 2, 2017. Specifically, as defined by the state of Utah, "Unlawful conduct" means conduct, by any person that is defined as unlawful under this title and includes: practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is: not licensed to do so or not exempted from licensure under this title.

The citation indicated that from late January to April 6, 2017, while working at Body Needs Chiropractic aka Advantage Medical Center clinic in Brigham City, UT, Mr. Pratt was found to have been involved in the dispensing of HCG, a prescription medication. Mr. Pratt was not during this time period and is not currently licensed as a dispensing medical practitioner. He was assessed a fine of \$1000.

4) Mr. Pratt stated that his negative response to questions 15 and 18 were due to confusion and miscommunication with the Utah Division of Occupational and Professional Licensing. He was informed by the department of professional licensing that a citation and disciplinary action were considered separate actions. When the Applicant searched Utah's licensing website for his name under "disciplinary actions search" it did not appear, but when he searched "citations search" his name did appear. He stated that he interpreted the question as disciplinary and did not consider a citation as a disciplinary action.

Mr. Pratt explained that he, his supervising physician and a fellow mid-level provider were giving prescribed HCG to qualifying patients in prefilled syringes. He stated that in an effort to provide a service to the patients and help ensure proper compliance they were prefilling the syringes for the patients, not knowing that this act required a dispensing license. As a new graduate PA he was acting as directed by his supervising physician, who was unaware of the law. Thus, shortly thereafter Mr. Pratt terminated his employment with the group. Since then, he has made a greater effort to know the laws and regulations that pertain to the PA practice, as well as confirm information and instructions that are given by his supervising physician.

5) Section 480(a) of the Business and Professions Code states that a board may deny a license regulated by this code on the grounds that the applicant has one of the following: (1) Been convicted of a crime; (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another; or (3) Done any act that if done by a licensee of the business or profession in question would be grounds for suspension or revocation of license. The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

6) Section 480(d) of the Business and Professions Code provides that the board may deny a license on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the license application.

7) Section 3527(a) of the Business and Professions Code states that the board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the Physician Assistant Practice Act, the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

8) The Applicant agrees that grounds exist to deny the applicant's application for licensure pursuant to Business and Professions Code section 480 based on paragraphs 3, 4, 5, 6, and 7.

9) The Applicant acknowledges that he has a right to request a hearing on the denial of his request for licensure. The Applicant voluntarily, knowingly, and intelligently waives and gives up this right by signing this Stipulation.

10) Pursuant to section 3527(a) of the Business and Professions Code, the Board may deny an application for licensure, or issue a license subject to terms and conditions, or suspend or revoke, or impose probationary conditions upon a physician assistant license, after a hearing, for unprofessional conduct. Unprofessional conduct includes, but is not limited to, a violation of the Physician Assistant Practice Act (commencing with Business and Professions Code section 3500), a violation of the Medical Practice Act (commencing with Business and Professions Code section 2000), or a violation of the regulations adopted by the Board or the Medical Board of California.

11) Pursuant to section 3519.5 of the Business and Professions Code, the board may issue a probationary license on terms and conditions. This Stipulation for a Probationary License (Stipulation) reflects board staff's recommendation to the Board regarding the issuance of a probationary license on terms and conditions to the Applicant in this matter, and that this Stipulation shall be subject to approval by the Board in order to be effective.

12) The Applicant understands and agrees that counsel for Complainant and board staff may communicate directly with the Board and board staff regarding this Stipulation without notice to or participation by the Applicant or his legal counsel. By signing the Stipulation, the Applicant understands and agrees that he may not withdraw his agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this Stipulation, the Stipulation for a Probationary License shall be of no force or effect (except for this paragraph) and shall be inadmissible in any legal action.

between the parties. Further, the Board shall not be disqualified from further action by having considered this matter.

13) The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulation, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14) This Stipulation is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulation may not be altered, amended, modified, supplemented, or otherwise changed, except by a writing executed by an authorized representative of each of the parties.

15) In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue a probationary license to the Applicant on the terms and conditions set forth below.

ORDER

1) Applicant is placed on probation for one (1) year, beginning on the effective date of the decision. Upon successful completion of the probationary period and all terms and conditions, an unrestricted physician assistant license shall be issued.

2) Education Course

Within 60 days of the effective date of the decision, Applicant shall submit to the board or its designee for its prior approval an educational program or course from an accredited program which shall not be less than 20 hours of Category 1 CME. The education course shall be aimed at correcting any areas of deficient practice or knowledge. The course shall be Category 1 certified, limited to classroom, conference, or seminar settings. Applicant shall successfully complete the course within the first year of probation.

Applicant shall pay the cost of the course.

Applicant shall submit a certification of successful completion to the board or its designee within 15 days after completing the course.

3) Ethics Course

Within 60 days of the effective date of this decision, Applicant shall submit to the board or its designee for its prior approval a course in ethics. The course shall be limited to classroom, conference, or seminar settings. Applicant shall successfully complete the course within the first year of probation.

Applicant shall pay the cost of the course.

Applicant shall submit a certification of successful completion to the board or its designee within 15 days after completing the course.

4) Prescribing Practices Course

Within 60 calendar days of the effective date of this decision, Applicant shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (program), approved in advance by the board or its designee. Applicant shall provide the program with any information and documents that the program may deem pertinent. Applicant shall participate in and successfully complete the classroom component of the course no later than six (6) months after Applicant's initial enrollment. Applicant shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

Applicant shall pay the cost of the course. The program shall determine whether Applicant successfully completes the course.

Applicant shall submit a certification of successful completion to the board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the decision, whichever is later.

5) Obey All Laws

Applicant shall obey all federal, state, and local laws, and all rules governing the practice of medicine as a physician assistant in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

6) Quarterly Reports

Applicant shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation.

7) Other Probation Requirements

Applicant shall comply with the Board's probation unit. Applicant shall, at all times, keep the Board and probation unit informed of Applicant's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board and probation unit. Under no circumstances shall a post office box serve as an address of record, except as allowed by California Code of Regulations 1399.511.

Applicant shall appear in person for an initial probation interview with the Board or its designee within 90 days of the decision. Applicant shall attend the initial interview at a time and place determined by the Board or its designee.

Applicant shall, at all times, maintain a current and renewed physician assistant license.

Applicant shall also immediately inform probation unit, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

8) Interview with Medical Consultant

Applicant shall appear in person for interviews with the Board's medical or expert physician assistant consultant upon request at various intervals and with reasonable notice.

9) Non-practice While on Probation

Applicant shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days. Non-practice is defined as any period of time exceeding 30 calendar days in which Applicant is not practicing as a physician assistant. Applicant shall not return to practice until the supervising physician is approved by the Board or designee.

If, during probation, Applicant moves out of the jurisdiction of California to reside or practice elsewhere, including federal facilities, Applicant is required to immediately notify the Board in writing of the date of departure, and the date of return, if any.

Practicing as a physician assistant in another state of the United States or federal jurisdiction while on active probation with the physician assistant licensing authority of that state or jurisdiction shall not be considered non-practice.

All time spent in a clinical training program that has been approved by the Board or its designee, shall not be considered non-practice. Non-practice due to a

Board ordered suspension or in compliance with any other condition or probation, shall not be considered a period of non-practice.

Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term. Periods of non-practice do not relieve Applicant of the responsibility to comply with the terms and conditions of probation.

It shall be considered a violation of probation if for a total of two years Applicant fails to practice as a physician assistant. Applicant shall not be considered in violation for non-practice as long as Applicant is residing and practicing as a physician assistant in another state of the United States and is on active probation with the physician assistant licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

10) Unannounced Clinical Site Visit

The Board or its designee may make unannounced clinical site visits at any time to ensure that Applicant is complying with all terms and conditions of probation.

11) Unannounced Clinical Site Visit

The committee or its designee may make unannounced clinical site visits at any time to ensure that respondent is complying with all terms and conditions of probation.

12) Condition Fulfillment

A course, evaluation, or treatment completed after the acts that gave rise to Stipulation but prior to the effective date of the Stipulation may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of the condition.

13) Completion of Probation

Applicant shall comply with all financial obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the completion of probation. Upon successful completion of probation, an unrestricted license will be issued.

14) Violation of Probation

If Applicant violates probation in any respect, the Board after giving Applicant notice and the opportunity to be heard, may revoke probation. If an accusation or petition to revoke probation is filed against Applicant during probation, the Board

shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

15) Probation Monitoring Costs

Applicant shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant Board and delivered to the Board no later than January 31 of each calendar year.

16) Voluntary License Surrender


Following the effective date of this probation, if Applicant ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Applicant may request, in writing, the voluntary surrender of Applicant's license to the Board. Applicant's written request to surrender his or her license shall include the following: his or her name, license number, case number, address of record, and an explanation of the reason(s) why Applicant seeks to surrender his or her license. The Board reserves the right to evaluate the Applicant's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Applicant shall not be relieved of the requirements of his or her probation unless the Board or its designee notifies Applicant in writing that Applicant's request to surrender his or her license has been accepted. Upon formal acceptance of the surrender, Applicant shall, within 15 days, deliver Applicant's wallet and wall certificate to the Board or its designee and shall no longer practice as a physician assistant. Applicant will no longer be subject to the terms and conditions of probation and the surrender of Applicant's license shall be deemed a disciplinary action. If Applicant re-applies for a physician assistant license, the application shall be treated as a petition for reinstatement of a revoked license.

17) Modification or Early Termination of Probation

Applicant may petition the board for reinstatement or modification of penalty after a period of not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action:

- a) At least three (3) years for early termination of a license or approval revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.
- b) At least two (2) years for early termination of probation of three (3) years or more.
- c) At least one (1) year for modification of a condition, or reinstatement of a license or approval revoked for mental or physical illness, or termination of probation of less than three (3) years.

If adopted by the Board as noted in Factual Findings paragraph 15 above, Applicant agrees to comply with the terms and conditions of the above Order.


James Pratt, Applicant

7/19/18
Date


Maureen L. Forsyth, Executive Officer
Physician Assistant Board

7-24-18
Date